

**STATE OF ILLINOIS**  
**ILLINOIS COMMERCE COMMISSION**

<b>RPM Technologies Inc.</b>	:	
<b>-vs-</b>	:	<b>08-0231</b>
<b>Illinois Energy Savings Corp.</b>	:	
<b>d/b/a U.S. Energy Savings Corp.</b>	:	
	:	
<b>Complaint as to billing/chargers</b>	:	
<b>in Chicago, Illinois.</b>	:	

**PROPOSED ORDER**

**Procedural History**

On March 24, 2008, RPM Technologies, Inc (“RPM”) (“Complainant”) filed a Complaint against Illinois Energy Corp. d/b/a U.S. Energy Savings Corp. (“Respondent”) (“U.S. Energy”) in which it alleged that it entered into a contract with U.S. Energy on the representation that doing so would result in a reduction on its gas bill.

Pursuant to notice as required by the law and the Commission several status hearings took place. Both Complainant and Respondent appeared by counsel before a duly authorized Administrative Law Judge (“ALJ”) of the Commission at its offices in Chicago, Illinois. At the evidentiary hearing both Complainant and Respondent presented witness testimony. At the conclusion of that hearing, the record was marked “Heard and Taken.”

**Testimony of Parties**

Mr. Randy Zych, the CEO of RPM, testified that on October 2, 2007, a representative of U.S. Energy, Johnny Sadkauskas, came to RPM located at 9981 W 190<sup>th</sup> Street, Suite C, in Mokena Illinois. Mr. Zych contends that Mr. Sadkauskas spoke with him regarding transferring the existing gas supplier from Nicor Gas Company to U.S. Energy. Based on Mr. Sadkauskas representations Mr. Zych understood that he was eligible for a reduction to his existing gas bill. Mr. Zych further testified that although he did sign the contract he failed to read it at the time. Subsequent to switching to U.S. Energy Mr. Zych maintains that the gas bills were in fact higher. Additionally, Mr. Zych testified that at the time it was unclear that he was in fact switching gas suppliers. Mr. Zych testified that he believed Mr. Sadkauskas to be from a state agency. He explained that he was

lead to believe this because Mr. Sadkaukas spoke of “deregulation” and the Company name being “U.S. Energy”. Another RPM employee, Dana Olson, also testified at the evidentiary hearing. Ms. Olson testified that she was present on the day that Mr. Sadkaukas came into the office. Although, she did not hear all of the conversation between Mr. Zych and Mr. Sadkaukas nor bear witness to all of their interactions she claims that she too was under the impression that Mr. Sadkaukas was with a state agency.

U.S. Energy made available witness Johnny Sadkaukas. Mr. Sadkaukas is the same independent contractor who spoke with Mr. Zych at his place of business in October of 2007. Mr. Sadkaukas testified that he identified himself as a representative from U.S. Energy, an alternative gas supplier, and informed him he was eligible for the “price protection program”. He testified that he was dressed in U.S. Energy attire as well as a U.S. Energy ID badge. Mr. Sadkaukas presented Mr. Zych with the contract filled it in and had him sign and initial it. This was then verified via a recorded telephone call. Mr. Sadkaukas added that Mr. Zych was given the opportunity to review the contract and appeared to have done so. Additionally, when Mr. Sadkaukas left he gave Mr. Zych a carbon copy of the contract and a brochure on gas pricing. Finally, Mr. Sadkaukas testified that at no time did he represent himself as working for or affiliated with a state agency.

### **Commission Analysis and Conclusions**

Complainant is alleging that it entered into a contract with U.S. Energy on the representation that doing so would result in savings on its gas bill. The CEO of the company testified that based on the circumstances and impressions at the time he was under the belief that the Respondent was affiliated with a state agency. This testimony was corroborated by another employee present at the time. Complainant testified that he did not understand what it was he was signing although, never disputed that he was given the opportunity to do so. Complainant alleged that he was not given a copy of the contract which made the situation all the more confusing for him when he began to receive bills from U.S. Energy.

Mr. Sadkaukas testified, for the Respondent, that at no time did he ever make any representations that he was affiliated with a state agency. Respondent testified that the Complainant was fully informed as to the nature of the contract and what it was he was signing. In support of this, Respondent claims that the Complainant reviewed the terms of the contract as verified on a recorded telephone call. Further, all that is being sought from Complainant is monies for gas supplied.

After reviewing the entire record, the Commission concludes that the Complainant failed to prove its case. In light of the testimony, provided by both parties, the Complainant should have been fully informed as to the terms of the contract. It is undisputed that a contract was presented and that Complainant had

at least the opportunity to review said contract. The Complainant, through his own testimony, testified that he failed to read the contract before he signed. Further, the Complainant was unable to provide any evidence that Respondent was representing itself as a government agency. In fact Complainant was very forthright in testifying that that was his "impression". Prior to the signing of the contract it should have been incumbent upon Complainant to ascertain for certain such details rather than simply relying on his impression. All terms of the contract are undisputed by the Complainant. The issue then becomes the circumstances in which the parties entered into this contract. Absent evidence such as fraud, duress, etc. we are left with what the Complainant himself characterized as ignorance.

Based upon the foregoing, the Complaint filed by RPM Technologies, Inc against Illinois Energy Saving Corp. d/b/a U.S. Energy is denied.

### **Findings and Ordering Paragraphs**

The Commission, having considered the entire record and being fully advised in the premises, is of the opinion and finds that:

- (1) Respondent, Illinois Energy Savings Corp. d/b/a U.S. Energy Savings Corp., an Illinois corporation engaged in the business of supplying gas to the general public in Illinois is a public utility within the meaning of The Public Utilities Act;
- (2) the Commission has jurisdiction over the Respondent and of the subject matter of this proceeding;
- (3) the findings of fact and conclusions of law reached in the prefatory portion of this Order are supported by the record and are hereby adopted as findings of fact and findings of law;
- (4) the evidence presented at the hearing support a finding that Respondent's actions with respect to charges to the Complainant's account was proper and in accordance with 83 Ill. Adm. Code 280.90;
- (5) the Complaint may properly be denied.

IT IS THEREFORE ORDERED by the Illinois Commerce Commission that the Complaint filed by RPM Technologies, Inc. against Illinois Energy Saving Corp. d/b/a U.S. Energy Saving Corp. be, and the same is, hereby denied.

IT IS FURTHER ORDERED that all motions, petitions, and objections made in this proceeding which are not disposed of, be and are hereby disposed of consistent with the ultimate conclusions contained herein.

IT IS FURTHER ORDERED that subject to the provisions of Section 10-113 of the Public Utilities Act and 83 Ill. Adm. Code 200.880, this Order is final, its is not subject to the Administrative Review Law.

DATED:

March 4, 2009

BRIEFS ON EXCEPTIONS DUE:

March 10, 2009

REPLY BRIEFS ON EXCEPTIONS DUE:

March 13, 2009

Katina S. Haloulos  
Administrative Law Judge